

Village of Irvington
Zoning Board of Appeals

Minutes of Meeting held February 10, 2004

A meeting of the Zoning Board of Appeals of the Village of Irvington was held at 8:00 P.M., Tuesday, February 10, 2004, in the Trustees' Meeting Room, Town Hall, Irvington, N.Y.

The following members of the Board were present:

Louis C. Lustenberger, Chairman
Robert Bronnes
Bruce E. Clark
Christopher Mitchell
Arthur J. Semetis
George Rowe, Jr.

Mr. Lustenberger acted as Chairman and Mr. Mitchell as Secretary of the meeting.

Minutes for the Board's meetings of December 16, 2003 and January 20, 2004 were approved.

There were three continuations and three new matters on the agenda.

Continuations

2002-29 Ruth Nicodemus and C.M. Pateman & Associates -
Mountain Road (Sheet 11; Lot P27K)
Seeking a variance from Article XV (Resource
Protection) of the Zoning Code to permit the

construction of one single-family residence and an interpretation or variance from section 243-11A (yard requirements).

- 2003-27 James Lundy and Martha Chamberland - 31 East Clinton Avenue (Sheet 14; Block 223; Lot 15 & 15A)
Seeking a variance from section 224-10 of the Zoning Code to permit a site capacity determination of two single family dwelling units.
- 2003-34 Mary Gian Catarino - Riverview Road (Sheet 10C; Block 229; Lot 3)
Seeking a variance from the Planning Board site capacity determination of zero pursuant to section 224-84.

New Matters

- 2004-01 Thomas and Holly Harty - 57 Field Terrace (Sheet 13A; Lot P99A)
Seeking a variance from section 224-10 (lot size) of the Village Code in order to permit the extension of a single-family residence.
- 2004-02 Steven Ivkovic and Sylvia Marusic - 21-23 South Eckar Street (Sheet 5; Block 212; Lot 15A)
Seeking variances from sections 224-89 (non-conforming use) and 224-134 (exceeding floor area ratio) of the Village Code in order to permit the extension of an existing multi-family residence.
- 2004-03 Meredith Vieira / Richard Cohen - 11 Dows Lane (Sheet 7B; Block 249; Lot 1A)
Seeking a variance from section 224-13 (coverage) of the Village Code in order to permit the extension of an existing residence.

Several matters that proved to be brief were dealt with at the start of the meeting. The Vieira/Cohen request for a variance had been withdrawn, it was announced.

Lundy

It was announced that engineering studies related to this variance were still in preparation, and therefore the matter could not be dealt with at this meeting.

Nicodemus

Mr. Jon Elwyn, a neighbor of the lot in question, was heard in opposition to the variance, as was Mr. Elwyn's attorney Mr. Mark R. Rielly. A petition in opposition from neighbors was also presented. Another neighbor, Ms. Linda Silvestre of Blueberry Hill Road, spoke against the proposed construction; Mr. Charles Pateman also addressed the Board. Mr. Clark asked the proponents what would happen if measures to channel the water flow across the property failed in a 100-year storm; the reply was that excess water would flow behind (west) of the planned residence, occasioning no greater total flow than would take place without construction.

The chair addressed the applicants' requests in parts, first addressing the matter of a variance from Article XV

(Resource Protection), together with the issue of steep slopes. He addressed the issue of yard requirements second. Under the first heading, the chair recalled the need for the Board to determine a balance between the interests of the applicant and the safety and health of the community. Evidence bearing on this assessment has to be substantial either way, he asserted.

Looking first from the perspective of the applicants, the chair noted that the parcel in question had been designated as a buildable lot, and that the Village environmental law and watershed regulations had been superimposed on that status. The parcel is located in a 1F40 district, and was subdivided unconditionally in 1985. Seventeen years later, the Village Environmental Conservation Board (ECB) had entered a statement to the effect that any building plans on the lot must be pursued with great care. One year further on, the ECB asserted that building on the lot would be detrimental. This statement was somewhat general and abstract, not based on specific studies.

Approaching the issue from the standpoint of the community's interests, the chair stated his view that steep slopes were not a significant issue on the parcel in question. He noted, further, that the Zoning Board of

Appeals must consider the project's potential effect on the Irvington Reservoir. He added that the fact that the Reservoir is not currently used as a source of drinking water is irrelevant; the Reservoir must still be protected.

The chair stated that, in his view, the engineering works described in the submitted plans, and described at the Board's meeting of January 20, would ameliorate the planned construction's effects on both the reservoir and on the general ecosystem; he did not believe that the broader needs of the ecosystem had been lost sight of during the Zoning Board's proceedings. Mitigation measures were described in detail, the chair noted, both in paper submissions and in testimony, and these engineering plans were not controverted substantially by the objectant. Tim Miller Associates called for a plunge pool near Mountain Road on this lot, and such a pool has been included in the engineering plans, as have a sewer system and dry wells, the latter to contain excess drainage from impervious surfaces. The final run-off from the site, following the installation of planned piping, is judged to be equal to or less than at present.

On the question of fill located on the site, the chair stated that it is difficult for the Board to assess the significance of the relatively high levels of zinc that

were found. The applicant has stated that he is willing to meet New York State Department of Environmental Conservation standards for soil quality before the construction is undertaken. On balance, the chair stated his view that it would be hard to rebut the substantial engineering evidence submitted by the applicant; the Village Engineer believes that the proposed works will accomplish what they claim to do. Nor, in the chair's view, had any benefit of due process been lost through the bifurcation of the proceedings, as agreed between the Zoning Board and Planning Board.

On the matter of site capacity, the chair moved that a site capacity of one be declared, solely in relation to the watershed and steep slopes, leaving the issue of yard requirements aside. The motion carried by three votes to one, with Mr. Semetis dissenting; Mr. Mitchell did not vote and Mr. Rowe had recused himself.

After discussion, the issue of yard requirements was adjourned to the next meeting, planned for March 23, 2004.

Catarino

This was a re-hearing of a matter that was previously approved by the Zoning Board on December 16, 2003, as a result of inadequate notification of certain neighboring

properties. A neighbor, Dr. Joseph A. Ciccio, Jr., appeared and stated that he had just learned about the project, and would appreciate seeing more detailed plans. When the chair noted that the variance and its reconsideration at the current meeting had been announced two weeks ago, Dr. Ciccio did not press his inquiries. The matter of contributing to maintain access roads near the lot in question was also raised on behalf of neighboring property owners. Representing the applicant, Mr. Rudolph C. Petruccelli, P.E. stated that the applicant recognized that the new homeowner should join and contribute to the maintenance easement. No new vote was necessary, and the variance was affirmed.

Harty

The applicant was represented by Christina Griffin, Architect, who submitted drawings showing the proposed residential expansion. In discussion, it was not clear to members of the Zoning Board of Appeals why the project was being reviewed again, especially since the applicant has acquired an abutting parcel which increases the effective lot size. The prior variance in this matter was reaffirmed.

Ivkosic and Marusic

The applicant presented a revised schematic architectural plan, reflecting changes adopted since the project was informally discussed on December 16, 2003. The revised plan was found to include a narrowing of the multi-family residence during construction, opening sufficient space for two cars to be parked in a driveway on the south side of the building. This plan avoided placing parking in the back yard, to which neighbors had objected, and one abutting neighbor submitted a letter withdrawing his objections to the project (in light of revisions). The applicant agreed that the renovated building would extend no further in the back yard than neighboring houses. The Zoning Board unanimously granted the variance sought by the applicant.

There being no further business to come before the meeting, it was, upon motion duly made and seconded, unanimously adjourned.

Christopher Mitchell